

### III. REMARKS

Claims 1-10 are pending in this application. By this amendment, claims 1, 2, 4, 6, 7 and 9 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-3 and 6-8 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Fisher *et al.* (U.S. Patent No. 5,835,896), hereafter "Fisher." Claims 4-5 and 9-10 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fisher in view of Official Notice.

#### A. REJECTION OF CLAIMS 1-3 AND 6-8 UNDER 35 U.S.C. §102(b)

With regard to the 35 U.S.C. §102(b) rejection over Fisher, Applicants assert that Fisher does not teach each and every feature of the claimed invention. For example, with respect to independent claims 1 and 6, Applicants submit that Fisher fails to teach obtaining supply information including a plurality of supply quantities and a supply price that depends on each supply quantity from at least one commodity supplier for a particular commodity item, wherein the supply price lowers as the supply quantity increases. One of the passages of Fisher cited by the Office teaches, "[t]hese catalog pages preferably contain the current high bid, bid increment, quantity available, merchandise description, and picture of the item." Col. 6, lines 28-30. The other passage of Fisher cited by the Office teaches that there is a minimum bid allowed for a merchandise item. Col. 10, lines 12-14. To this extent, Fisher teaches a quantity available and a minimum bid allowed. However, Fisher does not teach that its minimum bid allowed is

dependent upon the quantity available or that its minimum bid allowed lowers as the quantity available increases.

In contrast, the claimed invention includes "...obtaining supply information including a plurality of supply quantities and a supply price that depends on each supply quantity from at least one commodity supplier for a particular commodity item...wherein the supply price lowers as the supply quantity increases." Claim 1. As such, unlike the quantity available and minimum bid allowed of Fisher, a supply price of the claimed invention depends from each supply quantity and the supply price lowers as the supply quantity increases. For these reasons, the supply price and supply quantity of the claimed invention are not taught by the quantity available and minimum bid allowed of Fisher. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With respect to claims 2 and 7, Applicants submit the Hambrecht also does not teach a plurality of supply quantity ranges for use in a single instance of the selecting step. The Office equates the supply quantity ranges of the claimed invention with auctioning similar or the same product with varying or the same quantities concurrently. Col. 8, lines 5-14. However, the concurrent auction feature of Fisher requires multiple transactions, i.e., auctions. In contrast, the claimed invention includes "...the supply quantities in said supply list are classified into a plurality of supply quantity ranges each having a same predetermined span, and one or more corresponding supply prices are indicated for each of said supply quantities for use in a single instance of the selecting step." Claim 2. Accordingly, Applicants respectfully request the Office's withdrawal of the rejection.

With regard to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to independent claims listed

above. In addition, Applicants submit that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicants will forego addressing each of these rejections individually, but reserve the right to do so should it become necessary. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

**B. REJECTION OF CLAIMS 4-5 AND 9-10 UNDER 35 U.S.C. §103(a) OVER FISHER IN VIEW OF OFFICIAL NOTICE**

With regard to the 35 U.S.C. §103(a) rejection over Fisher in view of Official Notice, Applicants assert that the Office's factual assertion is not properly based upon common knowledge. The Office states that it is its position that it is old and well known in the arts to calculate gross profit by calculating total sales and subtracting from total sales the total cost of the item sold. However, in making this statement, Applicants respectfully submit that the Office fails to take into account the environment in which the calculating of the claimed invention is performed. For example, the claimed invention takes into account the plurality of supply quantity ranges with their dependent supply prices in the supply quantity list coupled with the fact that supply price lowers as the supply quantity increases, and provides a running calculation using these figures to select the optimum combinations. To this extent, Applicants assert that a running computation of profit comparing only the desired purchase price and the desired purchase quantity of said purchase wish list with the supply price and supply quantity of said supply list is not obvious to one skilled in the art as asserted by the Office. Accordingly, Applicants respectfully request that the Office support the finding with references that show these features or withdraw the rejection.

With respect to the Office's other arguments regarding dependent claims, Applicants herein incorporate the arguments presented above with respect to the independent claims from

which the dependent claims depend. Furthermore, Applicants submit that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicants respectfully request withdrawal of this rejection.

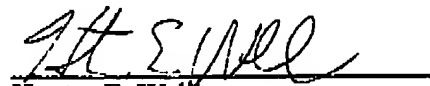
#### **IV. CONCLUSION**

In addition to the above arguments, Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: March 28, 2006

  
Hunter E. Webb  
Reg. No.: 54,593

Hoffman, Warnick & D'Alessandro LLC  
75 State Street, 14<sup>th</sup> Floor  
Albany, New York 12207  
(518) 449-0044  
(518) 449-0047 (fax)

RAD/hew